

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

REGIS CORPORATION D/B/A
HAIRMASTERS

and

Case 19-CA-177525

ASHLEY M. DORGAN

ORDER DENYING MOTION

This matter comes before the National Labor Relations Board upon the joint motion by the parties to waive a hearing and decision by an administrative law judge and to transfer the proceedings to the Board for a decision based on the stipulated record. For the reasons that follow, the Board has decided to deny the joint motion.

On August 24, 2016, the General Counsel, through the Regional Director for Region 19, issued a complaint and notice of hearing alleging that the Respondent has been violating Section 8(a)(1) of the National Labor Relations Act by maintaining, on a nationwide basis, an Arbitration Agreement it requires new hires to sign as a condition of employment, providing that all claims and disputes arising out of the employees' applications for employment, employment, or termination of employment be resolved through binding and final arbitration. On December 16, 2016, the parties filed their joint motion with the Board and requested that the Board set a time for the filing of briefs.

Recently, the Supreme Court issued its decision in *Epic Systems Corp. v. Lewis*, 584 U.S. ___, 138 S. Ct. 1612 (2018), a consolidated proceeding including review of court decisions below in *Lewis v. Epic Systems*, 823 F.3d 1147 (7th Cir. 2016), *Morris v. Ernst & Young, LLP*, 834 F.3d 975 (9th Cir. 2016), and *Murphy Oil USA, Inc. v. NLRB*, 808 F.3d 1013 (5th Cir. 2015). *Epic Systems* concerned the issue, common to all three cases, whether employer-employee

agreements that contain class- and collective-action waivers and stipulate that employment disputes are to be resolved by individualized arbitration violate the National Labor Relations Act. Id. at ___, 138 S. Ct. at 1619–1621, 1632. The Supreme Court held that such employment agreements do not violate this Act and that the agreements must be enforced as written pursuant to the Federal Arbitration Act. Id. at ___, 138 S. Ct. at 1619, 1632.

The Board having considered the matter,¹

IT IS ORDERED that the Joint Motion is denied, without prejudice, in light of the Supreme Court’s decision in *Epic Systems*, which overrules the Board’s holding in *Murphy Oil USA, Inc.*.

IT IS FURTHER ORDERED that this proceeding is remanded to the Regional Director for Region 19 for further processing consistent with *Epic Systems*.

Dated, Washington, D.C., July 27, 2018.

By Direction of the Board:

/s/ Farah Z. Qureshi

Associate Executive Secretary

¹ Member Emanuel is recused and took no part in the consideration of this case.